

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
: JEANICE DOLAN, DANIEL A. MALIN,  
: KEITH VINCENT, and all others similarly situated,  
:

Plaintiffs,

v.

BENJAMIN M. LAWSKY, Superintendent of  
Financial Services of the State of New York in his  
non-regulatory capacity as RECEIVER of Executive  
Life Insurance Company of New York; Certain  
Predecessor RECEIVERS of Executive Life  
Insurance Company of New York;  
METROPOLITAN LIFE INSURANCE  
COMPANY; and CREDIT SUISSE GROUP AG,

Defendants.  
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Civil Action No. 12 CV 8171 (JMF)

ECF Case

**NOTICE OF MOTION**

PLEASE TAKE NOTICE that, upon the accompanying memorandum of law in support of this motion, the accompanying declaration of Eamon P. Joyce, dated January 18, 2013, with exhibits attached thereto, and any other submissions that shall be made in support of this motion, the undersigned counsel, on behalf of Defendant Benjamin M. Lawskey, Superintendent of Financial Services of the State of New York in his capacity as Receiver of Executive Life Insurance Company of New York (“Superintendent Lawskey”), will move this Court, before the Honorable Jesse M. Furman, at the United States Courthouse, 500 Pearl Street, New York, New York, on a date and time to be determined by the Court, to stay this action pursuant to the *Burford* abstention doctrine, or, in the alternative, to dismiss Plaintiffs’ putative Class Action Complaint in its entirety and with prejudice, pursuant to Federal Rule of Civil Procedure 12(b)(6).

PLEASE TAKE FURTHER NOTICE that, in accordance with Rule 3.B of the Individual Rules and Practices in Civil Cases of the Honorable Jesse M. Furman, United States District Judge, prior to filing the instant motion, the undersigned counsel for Superintendent Lawskey communicated with counsel for Plaintiffs by letter not exceeding three single-spaced pages, setting forth the specific pleading deficiencies in the Class Action Complaint and other reasons and controlling authorities that Superintendent Lawskey contends warrant dismissal. Counsel for Plaintiff responded by letter in accordance with the applicable rule, and stated via phone on January 17, 2013, that Plaintiffs would not amend the Class Action Complaint prior to Superintendent Lawskey's filing of the instant motion.

PLEASE TAKE FURTHER NOTICE that, pursuant to Local Civil Rule 6.1, Plaintiffs shall file any opposing affidavits or memoranda in opposition to this motion by February 1, 2013, and Superintendent Lawskey shall file any reply affidavits and memoranda of law in further support of this motion by February 8, 2013.

Dated: New York, New York  
January 18, 2013

Respectfully submitted,  
  
SIDLEY AUSTIN LLP

By: /s/ Eamon P. Joyce  
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capacity as Receiver of Executive Life  
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